

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2500 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

H. D. PATEL

Versus

STATE OF GUJARAT

Appearance:

None present for Petitioner

None present for Respondent No. 1

MR SUNIL K SHAH for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/06/1999

ORAL JUDGEMENT

#. Perused the Special Civil Application and heard the learned counsel for respondent No.2.

#. The petitioner, by this Special Civil Application, seeks to challenge the inaction on the part of respondent - Gujarat Maritime Board, in respect of publishing the

seniority list of Deputy Executive Engineers (formerly Deputy Engineers) on its establishment giving due effect to the ratio laid down for promotion to the post by the relevant rules and regulations and in giving promotions to the post of Executive Engineers on adhoc or temporary or provisional basis without undertaking the exercise of publishing such seniority list of the cadre of Deputy Executive Engineers thereby causing prejudice to the career and prospects of the petitioner.

#. The petitioner, in this special civil application, prayed for following reliefs:

to issue a writ of a writ in the nature of mandamus or any other appropriate writ, direction or order, quashing and/or setting aside the order dated 4.2.86 (Annexure-0) of promotion of Mr.S.B.Kanani, Deputy Executive Engineer, to the post of Executive Engineer

to issue a writ of or a writ in the nature of mandamus or any other appropriate writ, direction or order directing the respondent-Board to consider the petitioner for promotion to the post of Executive Engineer on the basis of rank in the seniority list which he is entitled to get in accordance with ratio laid down by Government for promotion to the post of Deputy (Executive) Engineers and grant him deem date of promotion with all monetary benefits

to issue a writ of or a writ in the nature of mandamus or any other appropriate writ, direction or order directing the respondent - Gujarat Maritime Board to fix up and publish the seniority list of Deputy Executive Engineers within a time limit which may be stipulated by Your Lordships and restrain the respondent Maritime Board from making any further promotions to the cadre of Executive Engineers till such seniority list of Deputy Executive Engineers is published and/or finalized by the Board.

Pending the hearing and disposal of this petition, Your Lordships will be pleased to restrain respondent No.2 - Gujarat Maritime Board from giving any more promotions to the post of Executive Engineer.

#. So far as the first prayer is concerned, it cannot be granted as Mr.S.B.Kanani is not impleaded as a party by

petitioner to this special civil application. In the absence of that officer and without hearing him, order under which he was given promotion to the post of Executive Engineer cannot be set aside.

#. So far as other prayers are concerned, this matter pertains to the year 1986 and during these thirteen years, what ultimately has transpired has not been brought on the record by the petitioner.

#. Alongwith the reply, the respondent - Maritime Board has produced the statements showing list of officers actually promoted to the post of Deputy Engineers (Civil) from the cadre of Junior Engineer (C), Supervisors (C) and Overseer (C), prior to 1972. I find that there is another statement showing list of officers promoted to the post of Deputy Engineers (Civil) from the Cadre of Junior Engineers (C), Supervisors (C), and Overseers (C). The petitioner was in the cadre of Supervisor(C) and the promotions which have been made to the next higher post from time to time have been given out. Mr.S.B.Kanani was promoted on 26.11.74 whereas the petitioner was promoted on 1.12.76. In view of the aforesaid facts which are uncontroverted Mr.Kanani was definitely senior to the petitioner and he has rightly been given promotion earlier to him on the next higher post. From the reply of special civil application, I find that whatever has been done, it has been done earlier in the matter of promotions which now the petitioner is complaining after so many years. The petitioner has not taken appropriate remedy at the relevant time and after lapse of so many years, now this writ petitioner for all these grievances otherwise is difficult to appreciate. moreover, the petitioners and his counsel's absence goes to show that these grievances are now not substantiate. The learned counsel for the respondent No.2 has produced for perusal of this Court the decision of this Court dated 25th July 1997 in Special Civil Application No.3717 of 1985 and contended that this matter is squarely covered. After going through the judgment, I find that what the learned counsel for the respondent No.2 contends cannot be said to be without substance and merits.

#. In the result, this special civil application fails and the same is dismissed. Rule discharged. No order as to costs.

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(sunil)

